

173452



400 DIEHL SOUTH ROAD  
LEAVITTSBURG, OHIO 44430  
(330) 675-4242  
(330) 675-4232 FAX

DEPT. OF TRANSPORTATION  
DOCKETS

02 MAY 20 PM 2:14



May 23, 2002

**To:** Department of Transportation  
National Highway Traffic Safety Administration  
49 CFR Part 571  
Docket Management  
Room PL-401  
400 Seventh Street, NW  
Washington, DC 20590

**Subject: Docket No. NHTSA00-8011** - 43  
**Notice of Proposed Rule Making (NPRM)**

Denman Tire Corporation respectfully submits the attached comments concerning the aforementioned NPRM Docket No. NHTSA-00-8011.

We would like you to consider the devastating economic impact of this proposal as it relates to the specialty tire manufacturers, the specialty tire market and its consumers.

We conclude this comment by recommending that FMVSS Nos. 109 and 119 be modified as applicable to the specialty tire industry.

Thank you in advance for your kind consideration of our position.

Sincerely,

A handwritten signature in cursive script that reads "Charles R. Wright".  
Charles R. Wright  
President and CEO

Attachment:

Denman Tire Corporation comment on Docket No. NTSA-00-8011

**Denman Tire Corporation**

**Comments on Notice of Proposed Rulemaking  
Docket No. NHTSA-00-8011**

**National Highway Traffic Safety Administration  
Department of Transportation**

**May 23, 2002**

Denman Tire Corporation manufactures high quality bias and radial tires for the specialty tire market. We have a long history of safe, reliable products manufactured under the Denman name and a myriad of other brands as well. It is this record of safety and reliability that motivates us to write these comments regarding the proposed modifications to FMVSS No. 119 and the creation of FMVSS No. 139.

The proposed rule intends to make itself applicable to “new pneumatic tires for use on motor vehicles with a GVWR of 10,000 pounds or less manufactured after 1975, except for motorcycles.” It is this broad stroke to cover *all* tires under this testing regimen that causes our concern for the future of our corporation. We intend in this document to explain why indeed *all tires cannot and should not* be categorized under a single umbrella.

The Preamble of the proposed rule states in Section X. Rulemaking Analysis and Notices, B. Regulatory Flexibility Act: “The agency does not believe that any of the tire manufacturers are small businesses.” Denman in fact is actually one of three small tire manufacturers in the United States. The other two are Hoosier Racing of Lakeville, IN and Specialty Tires of America in Indiana, PA. Each of these companies fits the definition of small business, as stipulated in 13 CFR Ch. I (1-1-00 Edition) under SIC Code 3011 Tires and Inner Tubes, in that we each employee less than 1,000 people and have revenues less than \$1,000,000,000.

Denman is a 320 employee privately owned specialty tire manufacturer. Denman employs 270 hourly workers who are represented by the United Steelworkers of America Local #98L. Our hourly employees have been members of a labor union since 1939. In addition to our active employees we have responsibility for countless retirees, spouses, widows and dependent children.

The specialty tire market is made up of enthusiasts from all walks of life. The vehicles they drive are quite different from the mass market passenger car, light truck or SUV. Rather, these consumers often modify their vehicles or restore an old vehicle to its original state. Our classic and antique tires fall into this latter vehicle category. In the case of light trucks, the fitment of our tires and any necessary vehicle modifications are usually intended to permit on and off road use or just for “show”. In other words, Denman provides very specific products for very unique

applications. Our highly specialized business serves a very small and narrow segment of the tire market.

The proposed testing revisions present for us an overwhelming burden of both time and money and would certainly lead to our demise as a business. We don't believe that the new tests will improve the safety of our tires but know factually that it will inflict a very heavy monetary toll on our small company. The intentions behind the TREAD Act are noble indeed but geared to a class of tires and vehicles that are quite different than the specialty markets we serve. Moreover, the events leading to the enactment of the TREAD Act indeed warrant a "raising of the bar" for the mass produced highway vehicle and its original equipment tires. The testing in this proposed rule would serve that intention well for those types of tires, but is simply ***not applicable*** to limited production specialty tires.

We manufacture about 594,000 tires annually that would be affected by this proposed rule. Of that number 301,000 are bias ply construction. The remaining 293,000 are radials. The agency acknowledges in the proposed rule that the new tests are not designed for bias tires and further reiterates that the current FMVSS Nos. 109 and 119 were developed for bias tire technology. No testing has been done under the new proposed tests with bias tires and we frankly would not expect them to pass. These new tests were designed for radial tires. Denman produced bias tires have been successfully developed under the guidelines of FMVSS Nos. 109 and 119 and continue to perform reliably and safely today.

The proposed rule preamble explains that the TREAD Act mandates were precipitated by the Ford / Firestone situation. Clearly, those type tires are manufactured in large volumes for original equipment and replacement sales. The Rubber Manufacturers Association (RMA) estimates the total US radial market to be roughly ***294,000,000 tires annually***. We, on the other hand manufacture ***293,000 radials annually***. Simply put, our ***annual*** volume produced is equal to what a major tire manufacturer makes ***every day***. In terms of market share, our annual volume calculates to less than 0.1% of the radial market. We further divide these units into 183 different designs and sizes. That calculates to 1,600 tire average per size and design per year. Again, a single size and design at the mass producer level will make more in a day than we make in a year.

The projected testing cost for each size and design is approximately \$3,000. The average production lot size for Denman is around 100 tires. Using the 293,000 annual radials produced as mentioned above, the 100 tire lot size then becomes 2,930 "lots" per year. Testing costs could exceed the gross revenue from radial tire sales! These testing costs to us would be prohibitive. The economics are such that we would be forced to cease operations.

The sharp rise in specialty tire costs as a result of this proposed rule would actually be detrimental to consumer safety. If these tires were no longer available because specialty tire manufacturing has ceased, the specialty tire consumer would be forced to run old tires beyond their serviceable life.

FMVSS Nos. 109 and 119 have served as the benchmark for the development and quality of the

specialty tire manufacturers since their inception. The safety and quality levels our products enjoy are a direct result of those testing standards. We therefore naturally conclude that these standards should be retained for specialty, limited production tires as defined in NPRM Reporting of Information and Documents about Potential Defects - Docket No. NHTSA 2001-8677-Notice 2. Specifically tires produced in quantities of less than 15,000 per size and design.

**Position Summary:**

1. The current proposed rule places an unnecessary economic burden on small specialty tire manufacturers with no benefit to the consumer
2. The agency has failed to recognize and address specialty tire manufacturers who fall under the definition of “small business”
3. The agency has failed to recognize and differentiate the unique design and service use of limited production specialty tires
4. FMVSS Nos. 109 and 119 have yielded safe specialty tires for the consumer
5. FMVSS Nos. 109 and 119 apply to limited production tires of 15,000 per size and design per year

**Recommended Solution:**

We propose that FMVSS NO. 109 be retained to cover passenger car tires with the added stipulation for limited production tires not to exceed 15,000 per size and design per year. We also propose that FMVSS NO. 119 be retained for Light Truck designated tires with the stipulation for limited production tires not to exceed 15,000 per design per size per year.